



State of New Jersey  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

GEORGE G. McCANN, P.E.

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for Hazardous Waste Management

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MAY 24 1989

Mr. Bryan D. Walker  
Acting Director  
Department of Energy  
Oak Ridge Operation  
P.O. Box 2001  
Oak Ridge, Tennessee 37831-8723

Dear Mr. Walker:

This is in response to your letter of April 14, 1989 to Dr. Donald A. Deieso regarding the Department of Energy's (DOE) proposed approach for the disposal of Formerly Utilized Sites Remedial Action Program (FUSRAP) wastes from New Jersey sites. We too are committed to expeditious clean-up of these sites, but we are deeply concerned by DOE's apparent disregard of State requirements that must be met prior to any meaningful efforts to select a potential disposal site for FUSRAP wastes.

Specifically, the Department of Environmental Protection (DEP) has made repeated requests over the past several years that DOE sample and characterize the stockpiled soils at all three FUSRAP sites (Maywood Interim Storage Site-MISS, Wayne Interim Storage Site-WISS and Middlesex Sampling Plant-MSP). I have enclosed a copy of the DEP's most recent response to DOE which outlines these requirements (see letter from John J. Trela to Peter J. Gross dated March 17, 1989). Until we receive these results, we cannot correctly classify the materials; and therefore, we cannot determine what disposal and treatment options may be suitable. As your minutes from the October 24, 1988 meeting between DOE, DEP, and the Environmental Protection Agency (EPA) indicate (copy also enclosed), "DEP stated that their agency could work with DOE on permanent siting if the material at the FUSRAP sites was radiological waste only". DOE has not yet completed the sampling necessary for the DEP to make such a classification. DOE has indicated that it might include such sampling during the Remedial Investigation/Feasibility Studies (RI/FS) for these sites, however, the DEP strongly recommends that this sampling be completed immediately so that DOE can begin to plan for consideration of appropriate treatment and/or disposal options. As always, your efforts as the lead agency responsible for remediation of these sites will receive our full cooperation and support.



Additionally, at the October 24th meeting, we recommended that DOE explore the option of performing an out-of-state removal action at MISS and WISS pursuant to Section 300.400 of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) with the cooperation of the EPA. We believe that pursuing this option would accelerate the remediation effort and would be in the best interests of the people of the Borough of Maywood and the Township of Wayne, as well as the people in surrounding affected communities.

In addition to the specific suggestions made in the preceeding paragraphs, we have indicated to DOE over the past several years that DOE's proposed strategy is inconsistent with the Superfund process and our past experiences as follows:

First, your proposed strategy places emphasis on ultimate permanent disposal of waste at a site in New Jersey. As we have previously pointed out, from a historical perspective, similar attempts to site permanent or temporary facilities for hazardous or radioactive wastes in our State have been met with strong public opposition and have not proven successful. Conversely, out-of-state removals have been successful and the EPA is planning such an approach for that portion of the Montclair, New Jersey, radium contaminated soil requiring off-site disposal. Therefore, while we believe that in-state disposal is an option to be explored, we believe that the major focus of the feasibility analyses should be on the evaluation of out-of-state treatment and disposal options. This might best be achieved by a focused feasibility study early in the process which examines out-of-state treatment and disposal options at the national or regional level for cumulative volumes of FUSRAP and other compatible wastes generated from other DOE clean-up activities. The potential for disposal at existing commercial and DOE facilities should also be thoroughly evaluated.

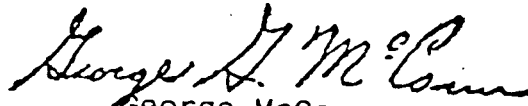
Second, the proposed strategy and revised schedule indicate that large-area screening activities will occur prior to completion of the RI/FS process at either site. This would imply that the in-state, off-site disposal option has been selected and that a new facility will be constructed in New Jersey. This is contrary to our belief that the RI/FS process should present and evaluate treatment and disposal options from which a preferred option is identified. An in-state screening process should therefore not be initiated prior to completion of the FS process as is implied in the proposed strategy and schedule. The focused feasibility study suggested above, however, could conceivably be conducted prior to the site RIs and supplemented as necessary upon their completion.

Third, we believe that the time frames for preparation of the Wayne and Maywood RI/FS's should be shortened.

Finally, the timing of the site environmental impact statement (EIS) is not in accordance with 40 CFR 1502, Section 1502.5 of the Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (NEPA) which stipulates that an EIS be prepared "early enough so that it can serve practically as an important contribution to the decision making process and will not be used to rationalize or justify decisions already made". As scheduled, the EIS would be prepared following the investigation of candidate sites and the selection of a final site. To comply with NEPA, the EIS should follow the selection of candidate sites and precede the selection of the proposed site.

We have also attached some specific questions for your review and response. Your response to our questions and suggested modifications in the proposed strategy are requested by June 15, 1989, so that we can complete a final and viable strategy with you as soon as possible.

Sincerely,



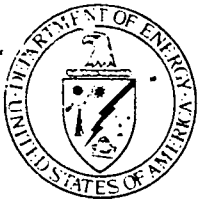
George McCann  
Assistant Commissioner

Enclosures

c: Donald A. Deieso, Ph.D., Assistant Commissioner  
Melinda Dower, Chief, DHWM  
Robert J. Stern, Ph.D., Chief, BER

Questions on Proposed DOE Strategy/Revised Schedule

1. In the two RI/FS approach for the Wayne and Maywood sites, how will cumulative wastes from the sites be addressed?
2. Will the feasibility studies contain a comprehensive evaluation of both in-state and out-of-state disposal and treatment options which considers
  - a. disposal facilities at the national level for NJ FUSRAP waste, including existing or new facilities either commercially or government operated,
  - b. disposal options for collocation of FUSRAP with compatible, non-FUSRAP waste, e.g., waste from the DOE Uranium Mill Tailings Remedial Action Project, EPA Superfund activities, existing and future defense operations generated low-level and other radioactive wastes, and
  - c. treatment and storage?
3. How will mixed waste be addressed in this process?
4. Will an environmental impact analysis be prepared at the programmatic level for determining a permanent remedy for FUSRAP sites? Will the RI/FS be prepared to meet NEPA standards?
5. How will the clean-up of the Middlesex site be tied in with the Wayne and Maywood sites?
6. What is the basis for initiating a screening process to identify potential candidate sites for a disposal facility prior to completion of the RI/FS?
7. Will there be pilot studies on treatment to support the feasibility analysis of that option?



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Oak Ridge Operations  
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Oak Ridge, Tennessee 37831-8723

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April 14, 1989

*Copy Petrucciello  
Wing  
Stone  
4/20/89  
MLP*

Dr. Donald A. Deieso  
Assistant Commissioner  
New Jersey Department of Environmental Protection  
401 East State Street  
Trenton, New Jersey 08629

Dear Dr. Deieso:

NEW JERSEY SCHEDULE

At our meeting on October 24, 1988, in Trenton, we discussed approaches to cleanup of the New Jersey Formerly Utilized Sites Remedial Action Program (FUSRAP) sites. From the Department of Energy (DOE) perspective, the key element in accomplishing this objective is the screening, investigation, and evaluation process relative to the siting of a potential disposal site for New Jersey FUSRAP wastes.

Over the past several years, the DOE has been communicating with the New Jersey Department of Environmental Protection (NJDEP) regarding active state participation in the siting process. As you are aware, the DOE is committed to cleaning up the New Jersey FUSRAP sites in the most expeditious manner. To that end, we have been discussing with you and your staff various approaches to performing the potential disposal site investigation and siting process such that final cleanup of the New Jersey sites can be completed as quickly as possible.

We acknowledge your concerns regarding the perception that initiating the siting process may prejudice the final selection of remedy (Record of Decision) at the Wayne, Maywood, and Middlesex sites. To address these concerns, we have proposed alternatives that the DOE feels meets your objectives, yet permits the DOE to proceed with the siting of a potential disposal site should offsite disposal be the selected remedy.

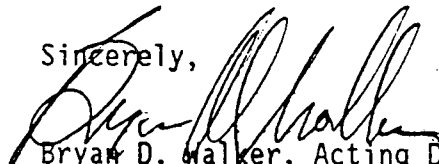
Without active state participation in the siting process, the DOE cannot effectively continue with the process. However, if your agency is willing to support active state participation, the following defines the strategy that the DOE will utilize regarding the siting of a FUSRAP disposal site in New Jersey.

- o DOE will continue development of documents defining the overall siting process and establishing siting evaluation criteria. The state will review and provide comments on these documents.
- o DOE will continue work relative to the screening and identification of potential disposal sites [site investigations/selection would not begin until after final selection of remedy (ROD) for Maywood]. The State will review and comment on the approach and all reports.
- o DOE will proceed with the RI/FS process as expeditiously as possible for Maywood with a Record of Decision currently planned for 1992. The Wayne Record of Decision is currently planned for 1993.
- o If off-site disposal is the selected remedy, DOE will then enter into negotiations with the state of New Jersey to establish binding protocols for the final disposition of New Jersey FUSRAP wastes.
- o Upon successful completion of negotiations, DOE will then initiate the final remedy environmental process, and if required, site and develop a new disposal facility.

The DOE feels that this approach minimizes burden on the citizens residing in the proximity of the New Jersey FUSRAP sites. If the DOE approach is not acceptable, the citizens of Maywood, Wayne and Middlesex will be required to accept storage of FUSRAP wastes in their communities for several additional years while the siting process is performed.

As we stated previously, the DOE cannot effectively proceed without active State participation, therefore, we solicit your comments and hope that discussions can continue resulting in an approach that supports the most expeditious solution for the cleanup of the New Jersey FUSRAP wastes. Should you have any questions, please contact Robert G. Atkin of my staff at (FTS) 626-1826.

Sincerely,

  
Bryan D. Walker, Acting Director  
Technical Services Division

cc: B. Clemens, BNI  
P. Evangelista, USEPA  
R. Hargrove, USEPA  
E. Kaup, NJDEP  
S. Luftig, USEPA  
G. McCann, NJDEP  
K. Stone, USEPA  
J. Wagoner, II, DOE-HQ

# PROPOSED NEW JERSEY SCHEDULE

	FISCAL YEAR									
	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
<b>WAYNE</b>		ARARs — RI/FS — ROD								
<b>MAYWOOD</b>		ARARs — RI/FS — ROD								
<b>POTENTIAL DISPOSAL SITE</b>				CANDIDATE SITE IDENTIFICATION	NOTICE OF INTENT					
			LARGE-AREA SCREENING							
						SITE INVESTIGATIONS/ SELECTION			EIS-ROD	